

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TYRONE FULTON,

Plaintiff,

-v-

THE CITY OF NEW YORK, *et al.*,

Defendants.

USDS SDNY
DOCUMENT
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DATE FILED: 10-17-11

No. 10 Civ. 425 (RJS) (HBP)

ORDER ADOPTING REPORT AND
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

Pro se Plaintiff Tyrone Fulton filed his Complaint on January 19, 2010, advancing claims under 42 U.S.C. § 1983 arising out of allegedly negligent dental care he received while he was incarcerated at the New York City Department of Corrections Facility at Rikers Island. By Order dated January 27, 2010, this matter was referred to the Honorable Henry B. Pitman, Magistrate Judge, for general pre-trial purposes and dispositive motions requiring a report and recommendation.


On July 14, 2011, Judge Pitman issued a Report and Recommendation (the "Report"), in which he *sua sponte* recommended that "this action be dismissed on the ground that plaintiff has not completed service of the summons and complaint within the time permitted by Rule 4(m) [of the Federal Rules of Civil Procedure]." (Doc. No. 9 at 2.) In the Report, Judge Pitman advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). No party has filed objections to

the Report, and the time to do so has expired. *Cf. Frank v. Johnson*, 968 F.2d 298 (2d Cir. 1993).

When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). After reviewing the record, the Court finds that Judge Pitman's Report is not facially erroneous. Accordingly, the Court adopts the Report in its entirety, and for the reasons set forth therein, dismisses the Complaint as to all Defendants without prejudice to renewal. The Clerk of the Court is respectfully directed to close this case.

SO ORDERED.

Dated: October 17, 2011
 New York, New York



RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

A copy of this Order has been mailed to:

Tyrone Fulton
2015 Madison Avenue
New York, NY 10035